

IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

O. O. C. J.

PARSI SUIT NO.23 OF 2004

Dinaz F. Irani ..Plaintiff No.1

and

Firdos S. Irani ..Plaintiff No.2.

....

Ms.A.S.Khushrushahi for the Plaintiffs.

CORAM : DR.D.Y.CHANDRACHUD, J.

(Aided by a forewoman,

two Gentlemen and

one Lady)

4th March, 2005.

ORAL JUDGMENT :

Non on Board. On the request of the
counsel, taken on Board.

1. This is a suit for divorce by mutual consent under Section 32-B of the Parsi Marriage and Divorce Act, 1936 ("the Act"). The parties are

both Parsi Zoroastrians and were married on 21st May, 1982, according to Parsi Zoroastrian rites and customs. There is one issue from the marriage, a daughter born on 4th January, 1986. Serious disputes have arisen between the parties and since 2000 the Second Plaintiff has moved out of the matrimonial home permanently.

2. The following issues were framed in the suit :

1. Whether the parties were married to each other according to the Parsi Zoroastrian rites and customs at Mumbai on the 21st May, 1982?
2. Whether the Plaintiffs have been living separately for more than a year i.e. from July 2000, as set out in the Plaint?
3. Whether there is any force, fraud or coercion on either party in filing the above suit?
4. Whether there is any improper delay in filing this suit?

5. Whether there is any legal ground why the reliefs claimed for should not be granted?

3. Four delegates have been present at the trial which constitutes a sufficient quorum under the provisions of Section 44 of the Act.

4. The delegates have advised the Court that the first and second issues are answered in the affirmative while the third, fourth and fifth issues are answered in the negative.

5. Though a view has been taken by F.I.Rebello, J. in **Curys Kersie Vandrevala and Kareena C. Vandrevala** (Suit No.15 of 2004, decided on 18th October, 2004), that it is not necessary for the Court to consult the delegates in a suit under Section 32-B for divorce by mutual consent, the Court has been informed that a challenge is pending to the aforesaid order. In order to obviate any difficulty and by way of abundant caution, I have taken the view of the delegates so that the suit for divorce by mutual consent can be disposed of.

6. Both the parties have stepped into the witness box in support of their respective cases for divorce by mutual consent. The parties have lived apart for a period in excess of one year and it is evident that they have irreconcilable differences. I am satisfied that this is a fit and proper case for the grant of divorce by mutual consent. The marriage has been solemnised under the provisions of the Act. From the evidence it is clear that the averments in the plaint are true and that the consent of either party to the suit was not obtained by force or fraud. In the circumstances, the suit is accordingly, decreed in terms of prayer clause (a). No order as to costs.